

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Chad R. Smith

Serial No.: 10/067,849

Filed: February 8, 2002

FOR: Method for Evening Tension in a Twisted  
Pair Electric Cable



Art Unit: 3723

Examiner: Lee D. Wilson

Attorney Docket No.:  
105967.00625

Date: June 12, 2003

6-20-03  
#10  
Election

**RESPONSE TO RESTRICTION REQUIREMENT**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**RECEIVED**

**JUN 19 2003**

TECHNOLOGY CENTER R3700

Sir:

In response to the Restriction Requirement dated April 17, 2003, the Applicant respectfully elects invention I, claims 1-5 drawn to a method of evening tension in an electric cable. The election is made *with* traverse. A petition for a one-month extension of time is filed concurrently herewith.

MPEP § 806.05(e) provides as follows:

The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process.

MPEP §803 provides as follows:

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

In the present application, the Applicant has elected invention I, method claims 1-5. Claims 2-5 are directed towards a method of evening the tension in an electrical cable using an apparatus having a swivel, clevis and a sheave (having a groove around its outside surface - see specification on page 8, 3rd paragraph). The apparatus claims 6-8 also have these limitations, so that contrary to the Examiner's assertion, the method cannot be practiced by another materially different apparatus.

Because of the common elements found in both the method and apparatus claims, the search for the method and apparatus would involve a substantial overlap. Therefore, the Applicant respectfully submits that any burden in the search and examination of the entire application, as opposed to invention I or II, would be *de minimis*. In particular, that burden is to be compared with the financial burden on the Applicant involved in filing and prosecuting a divisional application.

For the reasons set forth above, the Applicant respectfully submits that the present restriction requirement is improper and respectfully requests that it be reconsidered and withdrawn.

The present traversal should not be construed as an admission that the two inventions are not patentably distinct. In the event that the restriction requirement is maintained, the Applicant reserves the full protection of 35 U.S.C. §121 against double-patenting rejections.

Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (105967-00625). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this Response or is insufficient to render this Response timely, the Applicant hereby

petitions under 37 C.F.R. §1.136(a) for an extension of time for as many months as are required to render this submission timely. Any fee due is authorized above.

Respectfully submitted,

Chad R. Smith

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